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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Suzie Rose,

10 Plaintiff,

11 v.

12 Air Liquide USA LLC, et al.,

13 Defendants.  
14

No. CV-24-00539-PHX-MTL

**ORDER**

15 Before the Court is Plaintiff Suzie Rose's Motion to File a Third Amended  
16 Complaint. (Doc. 73.) Defendants Air Liquide USA LLC, Guidant Group Inc., Guidant  
17 Global Inc., and Icon Information Consultants, LP filed their responses (Docs. 90, 91), and  
18 Plaintiff filed her reply (Doc. 93). The Court now rules.

19 **I.**

20 On March 14, 2024, Plaintiff filed her original complaint with this Court. (Doc. 1.)  
21 Three months later, she filed a first amended complaint as a matter of right. (Doc. 24.)  
22 Shortly thereafter, Plaintiff filed a motion to amend her complaint—a request which  
23 Defendants did not oppose and the Court granted. (Doc. 34.) All Defendants filed separate  
24 motions to dismiss the Second Amended Complaint (Docs. 38, 39, 40), which the Court  
25 granted in part and denied in part (Doc. 62). In that order, the Court denied Plaintiff's  
26 request for leave to file an amended pleading. (*Id.*)

27 Approximately one month after that order, Plaintiff filed the pending motion for  
28 leave to amend her complaint. (Doc. 73.) Therein, she seeks to add five corporate

1 defendants alleged to be the employer, or joint employer, of Plaintiff's supervisors. (*Id.*)\*

## 2 II.

3 Under Rule 15(a)(1) of the Federal Rules of Civil Procedure, a party may amend its  
4 pleading once as a matter of course within: "(A) 21 days after serving it, or (B) if the  
5 pleading is one to which a responsive pleading is required, 21 days after service of a  
6 responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f),  
7 whichever is earlier." If outside the twenty-one-day limit, as is the case here, "a party may  
8 amend its pleading only with the opposing party's written consent or the court's leave."  
9 Fed. R. Civ. P. 15(a)(2). Plaintiff has not obtained written consent from Defendants, and  
10 therefore, may only file an amended pleading with leave of this court. *Id.*

11 Rule 15(a)(2) requires courts to "freely give leave when justice so requires." *Id.* The  
12 policy in favor of allowing leave to amend must not only be heeded by the Court, *see*  
13 *Foman v. Davis*, 371 U.S. 178, 182 (1962), it must also be applied with extreme liberality,  
14 *see Owens v. Kaiser Foundation Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001). In  
15 determining whether to grant leave to amend, courts consider five factors: "bad faith, undue  
16 delay, prejudice to the opposing party, futility of amendment, and whether the plaintiff has  
17 previously amended the complaint." *Desertrain v. City of L.A.*, 754 F.3d 1147, 1154  
18 (9th Cir. 2014) (quotations and citation omitted).

19 As a preliminary matter, the Court notes that Plaintiff's proposed amended  
20 complaint does not comply with LRCiv 15.1(a), which requires the amended pleading  
21 "indicate in what respect it differs from the pleading which it amends, by bracketing or  
22 striking through the text to be deleted and underlining the text to be added." As Defendants  
23 correctly point out, portions of Plaintiff's third amended complaint deviate from the second  
24 amended complaint but are left unmarked. In her reply, Plaintiff attests that "¶19 through  
25 ¶474 are identical to the SAC and have not been modified in any way." (Doc. 93 at 2.) But  
26 absent indication of the changes, neither the Court nor Defendants can decipher in all  
27 respects how this pleading differs from the operative complaint. This alone is sufficient to

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\* In her reply, Plaintiff seeks to modify her motion to only add three corporate defendants instead of the originally named five corporations. (Doc. 93 at 2.)

1 deny Plaintiff's request and strike the third amended complaint. *See Parker v. Johnson*,  
 2 No. CV-17-02904-PHX-SPL (ESW), 2018 WL 2561067, at \*2 (D. Ariz. June 4, 2018)  
 3 (striking the plaintiff's first amended complaint for failing to comply with LRCiv 15.1).

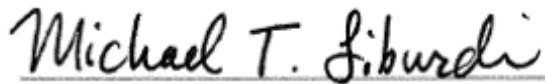
4 Plaintiff's noncompliance aside, the Court finds that the motion should be denied  
 5 after considering the five factors enumerated above. Although there is no indication  
 6 Plaintiff's motion was the result of bad faith or undue delay, the other three factors—  
 7 prejudice, futility, and prior amendments—tilt heavily in favor of denying her request.  
 8 Plaintiff has previously filed two amended complaints, once as a matter of right and once  
 9 with the Court's leave. (Docs. 24, 35.) Further, Plaintiff's proposed third amended  
 10 complaint fails to delineate the acts, omissions, or causes of action against each new  
 11 corporate defendant. Rather, Plaintiff improperly aggregates all defendants together  
 12 without plausible factual allegations in support of each defendant's liability. This is facially  
 13 insufficient to state a claim for relief under Fed. R. Civ. P. 8(a); and therefore, Plaintiff's  
 14 complaint as amended is likely futile as to these new defendants. *See Herrejon v. Ocwen*  
 15 *Loan Servicing, LLC*, 980 F. Supp. 2d 1186, 1197 (E.D. Cal. 2013) (dismissing the  
 16 plaintiff's complaint because it "lump[ed] defendants (and apparently others) together and  
 17 fail[ed] to distinguish adequately claims and alleged wrongs among defendants").

18 And most fatal to Plaintiff's request is the resulting prejudice to Defendants'  
 19 interests in finality if Plaintiff were permitted to file a *third* amended complaint. The second  
 20 amended complaint is over 100 pages long and spans 474 paragraphs. (Doc. 35.)  
 21 Defendants have already filed necessarily lengthy answers to the pleading. (Docs. 65, 66,  
 22 67, 70.) Adding multiple new defendants to the action and likely entertaining another round  
 23 of dismissal briefing will only delay resolution of this case. The Court understands that  
 24 Plaintiff is a *pro se* litigant. But even *pro se* plaintiffs do not get endless opportunities for  
 25 revisions. This case has left the pleading stage and must now proceed forward. Because "it  
 26 is the consideration of prejudice to the opposing party that carries the greatest weight,"  
 27 *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003), the Court will  
 28 deny Plaintiff's request.

**III.**

**IT IS ORDERED** that Plaintiff's Motion to Amend (Doc. 73) is denied.

Dated this 5th day of May, 2025.



Michael T. Liburdi  
United States District Judge